

RECEIVED

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ILLINOIS DEC 11 2007
 EASTERN DIVISION

MICHAEL W. DOBBINS
 CLERK, U.S. DISTRICT COURT

DEC 11 2007

Calvin E. Benford

(Name of the plaintiff or plaintiffs)

v.

Chicago Beverage Systems

(Name of the defendant or defendants)

CIVIL ACTION

07CV6958
 JUDGE COAR
 MAG. JUDGE VALDEZ

COMPLAINT OF EMPLOYMENT DISCRIMINATION

1. This is an action for employment discrimination.
2. The plaintiff is Calvin E. Benford of the county of Cook in the state of Illinois.
3. The defendant is Chicago Beverage Systems, whose street address is 441 N. Kilbourne, (city) Chicago (county) Cook (state) IL (ZIP) 60624
 (Defendant's telephone number) (773) - 826 - 4100

II The plaintiff sought employment or was employed by the defendant at (street address)

441 N. Kilbourne (city) Chicago
 (county) Cook (state) IL (ZIP code) _____

5. The plaintiff [check one box]
 - (a) was denied employment by the defendant.
 - (b) was hired and is still employed by the defendant.
 - (c) was employed but is no longer employed by the defendant.

6. The defendant discriminated against the plaintiff on or about, or beginning on or about, (month) October, (day) 11, (year) 05.

7.1 (Choose paragraph 7.1 or 7.2, do not complete both.)

(a) The defendant is not a federal governmental agency, and the plaintiff [check one box] has has filed a charge or charges against the defendant asserting the acts of discrimination indicated in this complaint with any of the following government agencies:

- (i) the United States Equal Employment Opportunity Commission, on or about (month) _____ (day) _____ (year) _____.
- (ii) the Illinois Department of Human Rights, on or about (month) October (day) 12 (year) 05.

(b) If charges were filed with an agency indicated above, a copy of the charge is attached. YES. NO, but plaintiff will file a copy of the charge within 14 days.

It is the policy of both the Equal Employment Opportunity Commission and the Illinois Department of Human Rights to cross-file with the other agency all charges received. The plaintiff has no reason to believe that this policy was not followed in this case.

7.2 The defendant is a federal governmental agency, and

(a) the plaintiff previously filed a Complaint of Employment Discrimination with the defendant asserting the acts of discrimination indicated in this court complaint.

- Yes (month) _____ (day) _____ (year) _____
- No, did not file Complaint of Employment Discrimination

2. The plaintiff received a Final Agency Decision on (month) _____ (day) _____ (year) _____.

c. Attached is a copy of the

a. Complaint of Employment Discrimination,

- YES
- NO, but a copy will be filed within 14 days.

(ii) Final Agency Decision

- YES
- NO, but a copy will be filed within 14 days.

8. (*Complete paragraph 8 only if defendant is not a federal governmental agency.*)

(a) the United States Equal Employment Opportunity Commission has not issued a *Notice of Right to Sue*.

(b) the United States Equal Employment Opportunity Commission has issued a *Notice of Right to Sue*, which was received by the plaintiff on
(month) September (day) 24 (year) 2007 a copy of which *Notice* is attached to this complaint.

9. The defendant discriminated against the plaintiff because of the plaintiff's [*check only those that apply*]:

(a) Age (Age Discrimination Employment Act).

(b) Color (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

(c) Disability (Americans with Disabilities Act or Rehabilitation Act)

(d) National Origin (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

(e) Race (Title VII of the Civil Rights Act of 1964 and 42 U.S.C. §1981).

(f) Religion (Title VII of the Civil Rights Act of 1964)

(g) Sex (Title VII of the Civil Rights Act of 1964)

10. If the defendant is a state, county, municipal (city, town or village) or other local governmental agency, plaintiff further alleges discrimination on the basis of race, color, or national origin (42 U.S.C. § 1983).

11. Jurisdiction over the statutory violation alleged is conferred as follows: for Title VII claims by 28 U.S.C. §1331, 28 U.S.C. §1343(a)(3), and 42 U.S.C. §2000c-5(f)(3); for 42 U.S.C. §1981 and §1983 by 42 U.S.C. §1988; for the A.D.E.A. by 42 U.S.C. §12117; for the Rehabilitation Act, 29 U.S.C. § 791.

12. The defendant [*check only those that apply*]

(a) failed to hire the plaintiff.

(b) terminated the plaintiff's employment.

(c) failed to promote the plaintiff.

- (d) failed to reasonably accommodate the plaintiff's religion.
- (e) failed to reasonably accommodate the plaintiff's disabilities.
- (f) failed to stop harassment;
- (g) retaliated against the plaintiff because the plaintiff did something to assert rights protected by the laws identified in paragraphs 9 and 10 above;
- (h) other (specify): _____

13. The facts supporting the plaintiff's claim of discrimination are as follows:

I was harassed ~~at~~ By Sid Murff and Mike Nino
Sid Murff ~~choke~~ Choked me in front of others
We went to Mike he never did anything. I WAS
A dependable and reliable ^{worker} my record spoke for
its self

14. [AGE DISCRIMINATION ONLY] Defendant knowingly, intentionally, and willfully discriminated against the plaintiff.

15. The plaintiff demands that the case be tried by a jury. YES NO

16. THEREFORE, the plaintiff asks that the court grant the following relief to the plaintiff
[check only those that apply]

- (a) Direct the defendant to hire the plaintiff.
- (b) Direct the defendant to re-employ the plaintiff.
- (c) Direct the defendant to promote the plaintiff.
- (d) Direct the defendant to reasonably accommodate the plaintiff's religion.
- (e) Direct the defendant to reasonably accommodate the plaintiff's disabilities.

(f) Direct the defendant to (specify): _____

(g) If available, grant the plaintiff appropriate injunctive relief, lost wages, liquidated/double damages, front pay, compensatory damages, punitive damages, prejudgment interest, post-judgment interest, and costs, including reasonable attorney fees and expert witness fees.

(h) Grant such other relief as the Court may find appropriate.

(Plaintiff's signature)

Calvin E. Benford

(Plaintiff's name)

Calvin E. Benford

(Plaintiff's street address)

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126 N. KARLOU

(City) *Chicago* (State) *IL* (ZIP) *60624*

(Plaintiff's telephone number) *(773) - 533 - 2694*

Date: *12-10-07*

LOCAL RULES 5.2 — 5.4

LR5.2. Form of Papers Filed

(a) PAPER AND FONT SIZE. Each document filed shall be flat and unfolded on opaque, unglazed, white paper approximately 8 ½ x 11 inches in size. It shall be plainly written, or typed, or printed, or prepared by means of a duplicating process, without erasures or interlineations which materially deface it. It shall be bound or secured on the top edge of the document. Where the document is typed, line spacing will be at least 1½ lines. Where it is typed or printed, (1) the size of the type in the body of the text shall be 12 points and that in footnotes, no less than 11 points, and (2) the margins, left-hand, right-hand, top, and bottom, shall each be 1 inch.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Mr. Calvin B. Benford
126 North Karlov #1
Chicago, IL 60624

From: Equal Employment Opportunity Commission
Chicago District Office
500 West Madison Street
Suite 2800
Chicago, Illinois 60661-2511



*On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))*

EEOC Charge No.

21B-2006-00072

EEOC Representative

Nola Smith, State & Local Coordinator

Telephone No.

(312) 886-5973

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- While reasonable efforts were made to locate you, we were not able to do so.
- You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

SEP 24 2007

John P. Rowe

John P. Rowe, District Director

Enclosure(s)

(Date Mailed)

cc:

Chicago Beverage Systems

| | | | |
|---|--|---|---|
| CHARGE OF DISCRIMINATION The Privacy Act of 1974 affects this form: See Privacy act statement before completing this form. 06w1012.11 | | AGENT <input checked="" type="checkbox"/> IDHR <input type="checkbox"/> EEOC | CHARGE NUMBER 2006CA0856 |
|---|--|---|---|

Illinois Department of Human Rights and EEOC

| | | |
|---|--|--|
| NAME (Indicate Mr. Ms. Mrs.) Calvin B. Benford | HOME TELEPHONE (include area code) (773) 533-2694 | |
| STREET ADDRESS 126 N. Karlov , Apt 1 | CITY, STATE AND ZIP CODE Chicago, Illinois 60624 | DATE OF BIRTH 02/05/59 |
| NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (IF MORE THAN ONE LIST BELOW) | | |
| NAME Chicago Beverage Systems | NUMBER OF EMPLOYEES, MEMBERS 15+ | TELEPHONE (Include area code) (773) 826-4100 |
| STREET ADDRESS 441 N. Kilbourn | CITY, STATE AND ZIP CODE Chicago, Illinois 60624 | COUNTY Cook |
| CAUSE OF DISCRIMINATION BASED ON: AGE PERCEIVED HANDICAP | DATE OF DISCRIMINATION EARLIEST (ADEA/EPA) LATEST (ALL) 10/11/05 10/11/05 | |
| <input type="checkbox"/> CONTINUING ACTION | | |

THE PARTICULARS ARE (If additional space is needed attach extra sheets)

I. A. ISSUE/BASIS**DISCHARGE – OCTOBER 11, 2005, DUE TO MY AGE, 46****B. PRIMA FACIE ALLEGATIONS**

1. I am 46 years old.
2. My work performance as a forklift operator met Respondent's expectations. I was Hired in 1996.
3. On October 11, 2005, I was discharged by Mike Nino (50's), Plant Supervisor. The reason cited for the discharge was because I had tested positive for cocaine use.

(continued)

| | | |
|---|---|-----------------|
| I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures. | SUBSCRIBED AND SWEORN TO BEFORE ME ON THIS <i>David Phansel</i> 10-12-05 | |
| | NOTARY SIGNATURE | MONTH DATE-YEAR |

| | |
|--|--|
| "OFFICIAL SEAL" DAVID D'HANSEL Notary Public, State of Illinois My Commission Expires 04/09/07 | x <i>Calvin Benford</i> 10-12-05 SIGNATURE OF COMPLAINANT DATE I declare under penalty that the foregoing is true and correct I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief |
| NOTARY SEAL | |

Complainant: Calvin L. Bedford

Charge Number: 2006CA0856

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4. I do not use drugs, but I have been taken over the counter drugs for minor pains and aches. Similarly situated, younger co-workers, have tested positive for drugs and/or alcohol, but they were not discharged, but they were allowed to enter a drug rehabilitation program for the addiction.

II. A. ISSUE/BASIS

DISCHARGE – OCTOBER 11, 2005, DUE TO A PERCEIVED MENTAL HANDICAP, DRUG ADDICTION

B. PRIMA FACIE ALLEGATIONS

1. I do not, nor have I been diagnosed with a mental handicap.
2. My work performance as a forklift operator met Respondent's expectation. I was hired in 1996.
3. On September 7, 2005, I asked to submit to a drug and alcohol examination. On September 11, 2005, I was discharged by Mike Nino, Plant Supervisor. The reason cited for the discharge was because I had tested positive for cocaine.
4. I do not use any illegal drugs, but I have taken over the counter drugs for usual minor pain and aches.
5. Respondent erroneously perceived me to have mental handicap of drug addiction, which consequently resulted in me being discharged.

HMS/RCC/JJT